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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,540	02/29/2000	DIETMAR PRZYTULLA	2511-089	8719

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PENNIE & EDMONDS
1667 K STREET NW
WASHINGTON, DC 20006

EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

8

DATE MAILED: 03/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/486,540

Applicant(s)

PRZYTULLA ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on May 28, 1998. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

2. The information disclosure statement submitted on February 29, 2000 (Paper No. 4) was considered by the examiner.

Claim Rejections - 35 USC § 112

3.. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 17-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 17-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stenger (US 5,217,128) in view of Giblin (US 6,223,945) or Donnelly (US 3,114,932).

Stenger shows a blow molded bottle (col. 1, line 21) having a five gallon capacity (col. 1, line 46), which bottle has a neck with a lower ring 40 (Figure 1) which may be engaged by a tool for lifting and carrying the bottle (col. 3, lines 15+). The bottle has a fan-shaped array of ribs which increase the strength of the breast of the bottle and reduce flexing and collapsing when the bottles are stacked on each other (col. 5, line 31 through col. 6, line 3).

Stenger fails to teach vertical ribs along the sidewall of the bottle.

Giblin teaches a blow molded (col. 12, line 43) bottle of rectangular shape (Figure 4) that has vertical ribs in it to increase the rupture resistance of the bottle (col. 12, lines 4-13).

Donnelly teaches a blow molded plastic container (col. 1, lines 10-11) having internal rib-like reinforcers to stiffen and reinforce the container (col. 2, lines 14-16). The ribs have increased thickness when compared to the other areas of plastic (col. 4, lines 16-17 and 39-41). The widths, and consequently the size, of the ribs can be variable (col. 5, lines 14-16).

Stenger, Giblin and Donnelly are analogous because they all teach the production of reinforced containers.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the vertical ribs of Giblin or Donnelly inside the bottle of Stenger in order to increase the bottle's rupture resistance (per Giblin) or reinforce the container (per Donnelly).

The motivation to employ the ribs of Giblin or Donnelly in the bottles of Stenger is found at col. 12, lines 4-13 of Giblin and col. 2, lines 14-16 of Donnelly, where the properties-enhancement attendant to the use of ribs is discussed. It is deemed desirable to make containers of various kinds having reinforced, more rupture resistant sides in order to improve the useful life of the containers.

The examiner deems a barrel and a bottle to have the same shape.

The examiner notes that Giblin shows a rectangular container in Figure 4.

Stenger, Giblin and Donnelly Stenger, Giblin and Donnelly Stenger, Giblin and Donnelly is a matter of design choice.

The affixing of handles to Stenger, Giblin and Donnelly would be obvious in view of Stenger's teaching that the ring 40 is to be used with tools for handling/lifting the Stenger bottles.⁸ Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stenger, Giblin and Donnelly as applied to claims 17-31 above, and further in view of Yavorsky (US 3,987,926).

Stenger, Giblin and Donnelly are discussed above.

They fail to teach the provision of bunds on their containers.

Yavorsky shows blow molded barrel shaped containers (Figure 1 and 3) having bung on them (abstract). Closures are shown in Figure 2 at 20 and 22.

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The examiner takes official notice that a bung is a type of closure.

Stenger, Giblin, Donnelly and Yavorsky all deal with the production of containers.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the bungs of Yavorsky on the containers suggested by the combination of Stenger, Giblin and Donnelly in order to facilitate their closure.

The motivation to employ the bungs of Yavorsky in the containers suggested by the combination of Stenger, Giblin and Donnelly is found in Figure 2 of Yavorsky where closures 20 and 22 are depicted. It is deemed desirable to make containers that have closures to help prevent spillage of the containers' contents when they are handled and/or transported.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stenger, Giblin and Donnelly as applied to claims 17-31 above, and further in view of Dunken et al (US 5,232,120).

Stenger, Giblin and Donnelly are discussed above.

They fail to teach a container used with a pallet.

Dunken teaches a container with an integral pallet designed so that when it is stacked on another container the upper container's pallet will nest in the lower container's lid (abstract).

Stenger, Giblin, Donnelly and Dunken all teach the production of containers.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the pallet feature of Dunken when making the

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containers suggested by the combination of Stenger, Giblin and Donnelly in order to make the containers stackable.

The motivation to use the pallet of Dunken when making the containers suggested by Stenger, Giblin and Donnelly is found in the abstract of Dunken, where the use of the pallet feature to facilitate stacking of containers is taught. It is deemed desirable to make containers stackable to facilitate transportation and storage.

Reference Cited as of Interest

10. JP 11147249A shows spiral ribs on the interiors of blow-molded containers.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

SMN/smn